

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Bean et al. Art Unit 3761
Serial No. 10/620,142
Filed July 15, 2003
Confirmation No. 8474
For ABSORBENT ARTICLE HAVING A STRETCHABLE REINFORCEMENT
MEMBER
Examiner Jacqueline F. Stephens

October 17, 2007

REPLY BRIEF

This is a reply to the Examiner's Answer mailed August 27, 2007. Appellants' reply is being filed to respond to the Examiner's Response to Argument set forth on pages 10-12 of the Examiner's Answer.

As explained in detail in Appellants' Appeal Brief dated May 8, 2007, claim 20, claim 51, and the claims depending therefrom are submitted to be patentable over Hsueh et al. (U.S. Patent No. 5,536,264) in that this reference fails to teach or suggest an absorbent structure wherein fibers of an absorbent member extend through openings in a reinforcing member and entangle with other fibers of the absorbent member. In fact, this combination of features is not even mentioned by the Examiner in her rejection of claims 20 and 51 as being taught by Hsueh et al. as set forth on pages 5 and 6 of the Examiner's Answer. Specifically, nowhere does the Examiner assert that the fibers disclosed by Hsueh et al. extend through openings in a reinforcing member. Instead, the Examiner states that since the layers of Hsueh et al. are compacted together there is "some degree of fiber entanglement" between the layers. See pages 5, 6, and 10 of the Examiner's Answer. Accordingly, appellants submit that

the Examiner's rejection of claims 20 and 51 is insufficient and does not establish a *prima facie* case of obviousness. That is, the Examiner's rejection fails to establish (or ever assert) that Hsueh et al. teaches or suggests fibers extending through openings in a reinforcing member not that such a feature would have been obvious.

Now, for the first time, the Examiner relies on U.S. Patent No. 5,112,325 (Zachry) as teaching "mechanical entanglement as a result of compression of webs" and that "[t]his mechanical entanglement satisfies the limitation of fibers passing through the reinforcing member and becoming entangled with other fibers of the absorbent member." See page 10 of the Examiner's Answer. Appellants point out that the Examiner's rejection of claims 20 and 51 is based solely on Hsueh et al. and not Hsueh et al. in view of Zachry.

Nevertheless, Zachry fails to teach or suggest that the compaction of fibers results in entanglement of fibers as opined by the Examiner. In fact, it appears that Zachry is teaching just the opposite: that mechanical compaction and entanglement are two separate and distinct ways to mechanically bond fibers together. Specifically, Zachry at col. 4, lines 8-14 states:

Mechanical bonding of the fibers of the web one with another may also, or alternatively, be developed in the course of formation of the web due to entanglement of the fibers with one another, by mechanically pressing the web to compact the fibers, and/or by other means such as pressure-entanglement of the web fibers.

In other words, Zachry is setting forth three different ways to mechanically bond fibers: 1) entanglement; 2) compaction; and 3) pressure-entanglement. Thus, Zachry expressly teaches

that entanglement and compaction are different ways in which fibers of a web can be interconnected. Zachry is clearly not teaching or suggesting "mechanical entanglement as a result of compression of webs" as asserted by the Examiner.

Thus, claim 20, claim 51 and the claims depending therefrom are submitted to be nonobvious in view of and patentable over Hsueh et al. for the above reasons as well as the reasons set forth in appellants' Appeal Brief. These claims are also submitted to be further patentable over Hsueh et al. in view of Zachry.

Claim 32 and the claims depending therefrom are submitted to be nonobvious in view of and patentable over Hsueh et al. in that the reference fails to disclose an absorbent structure in which a reinforcing member is at least partially embedded in a fibrous absorbent member, with the reinforcing member being connected to the absorbent member and at least partially gathering the absorbent member to form rugosities on the surface of the absorbent member. There is no disclosure or even a suggestion found anywhere in Hsueh et al. that rugosities or gatherings are formed in the surface of the absorbent composite disclosed therein.

In the Response to Argument section of the Examiner's Answer, the Examiner cites col. 40, lines 48-52 of Hsueh et al. for the first time as disclosing that the components (i.e., macrostructure layer 81 and substrate layer 82 of Fig. 9) are stretchable to form voids. See page 11 of the Examiner's Answer. The Examiner then asserts, without any citation to Hsueh et al., that the substrate layer has a greater stretch than the absorbent member which would result in rugosities forming on the absorbent member. Hsueh et al., however, is devoid of any such disclosure or suggestion.

Assuming arguing that Hsueh et al. does indeed teach or suggest that the substrate layer is more stretchable than the macrostructure layer (Appellants contend that it does not), rugosities would not form on the absorbent member as asserted by the Examiner. Instead, it appears that any discrepancy in the stretchability between the substrate layer and the macrostructure layer would simply cause the voids to become smaller. That is, any retraction of the substrate layer would cause the area of the voids to be smaller than if the substrate layer did not retract.

For these additional reasons, claim 32 and the claims depending therefrom are submitted to be nonobvious in view of and patentable over Hsueh et al.

Conclusion

In addition to the reasons set forth in Appellants' Appeal Brief, the rejections of the claims on appeal are submitted to be in error for the reasons set forth above.

Appellants do not believe that any fee is due. However, the Commissioner is hereby authorized to charge any deficiency or overpayment of any fees to Deposit Account No. 12-384.

Respectfully submitted,

/Richard L. Bridge/

Richard L. Bridge, Reg. No. 40,529
ARMSTRONG TEASDALE LLP
One Metropolitan Square, 26th Floor
St. Louis, Missouri 63102
(314) 621-5070

RLB/PEB/tmg
Via EFS